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C O N F I D E N T I A L SECTION 01 OF 02 ANKARA 001342

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SUBJECT: AKP INSIDERS DISCUSS CLOSURE CASE

Classified By: AMBASSADOR ROSS WILSON FOR REASONS 1.4 (B) AND (D)

¶1. (C) Summary: On the eve of Turkish Constitutional Court deliberations in the AKP closure case that begin July 28, the outcome is impossible to predict. A senior AKP-affiliated journalist told Ambassador July 24 that he is hopeful the Turkish Constitutional Court may avoid ruling to close the party and ban its leaders. He believed a relatively quick ruling is likely, probably in the July 30-August 8 period; discounted the possibility that the AKP coalition might break up in the wake of a closure decision; and expects the AKP or its successor will have "learned the lessons" from the past year's debacle and will stop pushing anything that could be regarded as a cultural/religious agenda. Separately, a senior aide to Erdogan reported to Ambassador July 25 that the PM is optimistic, but also resigned to the difficulty of reconciling the periphery that the AKP represents with the old elites of the state. In Erdogan's mind, either closure or vindication of the AKP will put further to bed the whole phenomena of party closures and extra-constitutional interventions against democracy. With these and other Turks, Ambassador noted the importance, in the wake of whatever decision the court makes, of reducing tensions, moving forward in an orderly way, and putting EU-related reforms back at the center of Turkey's agenda. End Summary.

¶2. (C) Likely Court Decision: A senior AKP-affiliated journalist said that until a month ago, he was virtually certain that the Constitutional Court would rule to close the AKP and to ban PM Erdogan and many other top party figures. But influential pro- and anti-AKP figures have been speaking publicly and privately in recent weeks about how closure is a bad idea. Many among the Kemalist elite and parliamentary opposition now believe closure will weaken their long-term position. They also recognize the damage to Turkey that would ensue. This journalist believed that AKP exoneration is a possibility, but perhaps one too "unthinkable" to those who brought the case. A top aide to Erdogan was likewise optimistic about the prospects for non-closure and even wondered how serious the chief prosecutor was in initiating the case. While Kemalists "instinctively" want the AKP and Erdogan to go away, relatively few had really spoken up to support closure/bans per se. The case's initiators, who are not obviously a large, cohesive group, have made their point, but won't be allowed to take things to a maximalist conclusion.

¶3. (C) Black Clouds: Two scenarios were worrisome in a non-closure scenario, the journalist suggested. One is that the court might use the overall finding of "guilty" that falls short of closure to justify a ban on Erdogan personally. The other possibility is a ban on President Gul that would purport to drive him from office. Both require the court to rule beyond what the law and constitution provide, but the court "has been legislating and re-writing the constitution for over a year," the journalist complained -- a remark that Erdogan and FM Babacan have made to us privately, as well. The journalist believed that the closure case's backers aim to eliminate both Erdogan and Gul; they won't stop until they have achieved their objectives.

14. (C) Timing: The AKP-affiliated journalist cited a court contact as saying that the court will decide on the prosecutor's indictment "within a couple of days" after it begins deliberations on July 28, with another several days required to agree on a written opinion, which is required for the decision to have legal effect. His time frame for an outcome is July 30-August 8, sooner being more likely. He expected the decision and opinion to be released simultaneously. He agreed that the problem of premature leaks may impel the court to act fast, but believed that there will be leaks anyway and that these will exacerbate uncertainty and speculation. Separately, a Western journalist here said a court contact told him the court will decide and publish its ruling during the week of July 28.

15. (C) Next AKP Steps: The journalist indicated that the party leadership has a range of responses prepared depending on what exactly the court does. Upfront, he highlighted the leadership's inclination -- regardless of the court's decision -- not to repeat mistakes of the past year, to avoid actions that will re-provoke the 'threat to secularism' debate, and to emphasize instead economic and social issues. He confirmed post-closure plans to form a new party and predicted there will be few, if any defections; the party will remain united, though for how long is a question. He was certain there will be early general elections if the AKP is closed and expected the sympathy factor will swell the new party's support to above 50 percent. (Some pollsters confirm this.) If the party is not closed, then there would be no point in holding a general election; the next voting would be for local governments in March. The journalist disregarded the new political movement being established by AKP founding

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member and former deputy PM Sener, observing that no one of significance has come out in support of Sener and that, while respected, he lacks much of a political base.

16. (C) Further Problems: The journalist described some possible post-court ruling moves that could provoke further tensions.

-- President Gul may try to appoint a banned Erdogan as deputy PM under a figurehead government leader, behind whom Erdogan would be the real power. (Turkish ministers do not have to be MPs, though all current ministers are.)

-- Parliament might pass a measure purporting to undo a Constitutional Court ban on Erdogan, whose own political history (an overturned ban in 2003) offers a model.

-- While it is unlikely that Gul (if not banned) would step down as president and re-enter politics to lead the post-AKP, he believed that Gul may try more directly to influence domestic politics from the presidency, even through his legal prerogatives in this area are limited.

-- A number of prominent secularists put forward by faculties to head some 20-plus Turkish universities are up for appointment/reappointment now by President Gul. The president will reject a number of them. Those he does select "will be mindful of who appointed them" -- and so will adopt the laissez-faire attitude regarding on-campus headscarves that a sizeable minority of universities have adopted for years.

Any of these things will infuriate the military, judiciary and secular hardliners and provoke further tensions.

17. (c) Speaking about motivations, the PM aide stressed that Erdogan's "mild" handling of the closure case has changed the way future cases will be viewed. He said Erdogan defied the advice of many senior colleagues, who urged a government push to amend the constitution to strip the court of jurisdiction or raise the number of votes required to convict in a closure case. Instead, Erdogan made clear that he accepted the

legitimacy of the process and would accept the verdict, even while complaining about it. This was intended to lower tensions, and the aide thought it had to some extent. The move also reflected what Erdogan regards as his mission to reconcile Turkey's political periphery, the AKP's heartland, with the Turkish state, which Erdogan now serves. And Erdogan was also fatalistic: regarding himself as politically "immortal," he believes he can come back post-closure, just as Ecevit and Demirel did before him.

18. (C) US Stance: Asked to explain "mixed US messages" on the closure case, Ambassador said that we have given clear backing to policies that we support -- as APNSA Hadley did in Ankara on July 17, and as Secretary Rice and others have done earlier. We are cognizant of the sledgehammer impact of what we do or don't say, and so have been cautious about going beyond support for policies we back in ways that would enmesh us in partisan politics. At the same time, Ambassador noted, we have tried to send strong, private signals on the need to reduce tensions -- which message remains current, perhaps even more so now as a court decision and dealing with its aftermath are imminent. Now is the time for pragmatism and politics, not confrontation. Ambassador also said that we have observed that a closure/ban decision will not be understood in the West, and so all of Turkey's leaders have a special responsibility to reaffirm in every way possible their commitment to the goal of EU accession and the political-economic reforms necessary to realize it. This context will give both Turks and this country's European partners a clear perspective of how to go forward.

19. (c) Comment: With three days to go, the Constitutional Court's ruling is really impossible to predict. We suspect that a certain amount of the speculation that a penalty less than closure/ban reflects wishful thinking. Another senior prime ministry aide told us this week that he is convinced closure is looming. "I know these people" (Kemalists) and they won't be influenced by rational concerns about how closure might affect Turkey, he said.

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